## REMARKS/ARGUMENTS

The foregoing Amendment and the following Remarks are submitted in response to the Office Action mailed January 28, 2004 (Paper No. 12) in connection with the above-identified application and are being filed within the first month after the three-month shortened statutory period set for a response by the Office Action.

Claims 82-97 are pending in the present application. Claim 82 has been amended to address a minor manner. Claim 96 has been re-written in independent form by including the subject matter of independent claim 82 therein. Applicant respectfully submit that no new matter has been added to the Application by the Amendment.

Applicant respectfully requests reconsideration and withdrawal of the rejection of the application, consistent with the following remarks.

The Examiner has objected to claim 82 or the reason that the claim fails to state a step of issuing a license to a first customer. Applicant respectfully traverses the objection.

Applicant has amended claim 82 to recite an issuance of a license. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to the claim.

The Examiner has rejected claim 96 under 35 USC § 112, first paragraph. Applicant respectfully traverses the § 112 rejection.

According to the Examiner, the second customer being the first customer in such claim 96 fails to comply with the written description requirement. Accordingly, Applicant has re-written claim 96 to be in independent form and to recite only a single

customer. Thus, Applicant respectfully requests reconsideration and withdrawal of the 112, first paragraph rejection.

The Examiner has rejected claims 82-97 under 35 USC § 103(a) as being obvious over Schull (U.S. Patent No. 6,266,654) in view of Koppelman et al. (U.S. Patent No. 6,662,164). In addition, the Examiner has rejected claim 92 under § 103(a) as being obvious over the Schull and Koppelman references and further in view of Krishnan et al. (U.S. Patent No. 6,073,124), and has rejected claims 94 and 95 under § 103(a) as being obvious over the Schull and Koppelman references and further in view of Powell (U.S. Patent Disclosure No. 2001/0032189). Applicant respectfully traverses the § 103(a) rejections.

As was previously pointed out, independent claim 82 recites a method of issuing digital licenses from a licensor for a corresponding piece of digital content, where the content was originally issued by a retailer. In the method, the licensor receives a first license request for a first license from a first customer in connection with the content, where the first customer has received a copy of the content from the retailer. The first request includes retailer information associated with the corresponding piece of digital content and identifying the retailer. The licensor receives a payment from the first customer in connection with the first license request, retrieves the retailer information from the first license request and identifies the retailer therefrom, and credits the identified retailer for a portion of the payment received in connection with the first license request.

The licensor then receives a second license request for a second license from a second customer in connection with the content, where the second customer having received a copy of the content from the first customer. The second request includes first customer information associated with the corresponding piece of digital content and identifies the first

customer. The licensor receives a payment from the second customer in connection with the second license request, retrieves the first customer information from the license request and identifies the first customer therefrom, and credits the first customer for a portion of the payment received in connection with the second license request.

Independent claim 96 recites substantially the same subject matter as claim 82, albeit with a single customer making the first and second license requests.

Once again, it is to be appreciated that there are a multitude of scenarios in which a second customer may obtain a piece of digital content and also obtain a corresponding yet separate digital license. For one example, the second customer may visit a retailer and upon payment of a fee thereto obtain the aforementioned content and the license from a licensor. For another example, the second customer may obtain the content as originally distributed by way of a retailer or as re-distributed from an intermediary such as a first customer, and then visit a licensor and upon payment of a fee thereto obtain the license.

As used here, a retailer is any sales agent operating a sales site for 'selling' the content, and a licensor is any licensing agent that operates a licensing site for granting a license that permits use of the content. In any case, the party collecting the payment (i.e., the licensor) likely is expected to share the proceeds with the other party (i.e., the retailer). Also, if the obtained content is re-distributed by a first customer to a second customer and the second customer obtains its own license by way of payment to the licensor, the licensor likely wishes to share the proceeds from that payment with the first customer, as a reward for the referred business. In such a situation, then, the mechanism of the present invention as set forth in the recited claims is necessary.

The Schull reference discloses a method for tracking software lineage, whereby a piece of software self-tracks to whom such piece of software is copied. Most relevant to the present invention as recited in independent claim 82, the Schull reference discloses at column 7, lines 31-53 that:

> It might well be advantageous to offer purchasers a commission on sales derived from their own purchased copy of a given product. This would encourage users to purchase the product, pass it to other potential purchasers, post it, publicize it, and recommend it on bulletin board systems where it is likely to be discovered or downloaded, and so on. It would also provide a way of offering existing purchasers a discount when they buy second or third copies for use on additional computers. The present system, without modification, already collates all of the information which would be needed to implement this scheme. When Customer A purchases a copy, his name, address etc is collected along with the Variable Portion data which individuates his particular purchased copy. If subsequent purchases involve new genomes which differ from Customer A's genomes by only one bit, they will be recognizable as first-order derivatives of Customer A's copy; if a new genome is registered which differs by two bits, it will be recognizable as a second order derivative, and so on. Commissions could thus be paid to successful redistributors on a regular basis, and under a variety of terms and conditions which might be specified in the promotional language embedded in the product itself.

Thus, the Schull reference recognizes that a first customer might be awarded an incentive based on a purchase by a second customer as derived from such first customer. However, and significantly, the Schull reference provides no specific method or system for identifying the first customer during the purchase by the second customer, and provides no specific method or system for crediting the first customer based on the purchase of the second customer. Moreover, the Schull reference does not at all disclose that software as purchased be used based on a corresponding purchased digital license.

Accordingly, the system as set forth by the Schull reference is not at all concerned with a licensor issuing digital licenses corresponding to a piece of content, and in particular does not disclose issuing a digital license to a first or second customer for a

corresponding piece of content, as is required by claim 82. Thus, the Schull reference does not disclose or suggest that a Schull customer sends a license request for a license, where such a license request includes retailer information or first customer information associated with the corresponding piece of digital content and identifying the retailer or first customer, as is also required by such claim 82. Similarly, the Schull system does not disclose or suggest a licensor receiving retailer information or first customer information from such a license request and cannot identify the retailer or first customer from any such information and credit same, as is further required by such claim 82.

Further, the Schull system does not receive any second license request for a second license from a second customer in connection with the content, where the second customer has received a copy of the content from the first customer, and where the second request includes first customer information associated with the corresponding piece of digital content and identifying the first customer, as is required by claim 82. Likewise, the Schull system is not disclosed as retrieving first customer information from a license request and identifying the first customer therefrom, and crediting the first customer for a portion of the payment received in connection with the second license request, as is required by claim 82.

The Koppelman reference discloses a method of allocating commissions, and recognizes that a commission generated by a first agent might be partially paid to a second agent. However, and as with the Schull reference, the Koppelman reference is not at all concerned with a licensor issuing digital licenses corresponding to a piece of content, and in particular does not disclose issuing a digital license to a first or second customer for a corresponding piece of content, as is required by claim 82. Thus, the Koppelman reference does not disclose or suggest that a Koppelman agent sends a license request for a license,

where such a license request includes retailer information or first customer information associated with a corresponding piece of digital content and identifying the retailer or first customer, as is also required by such claim 82. Similarly, the Koppelman reference does not disclose or suggest a licensor receiving retailer information or first customer information from such a license request and cannot identify the retailer or first customer from any such information and credit same, as is further required by such claim 82.

Further, the Koppelman reference does not disclose receiving any second license request for a second license from a second customer in connection with the content, where the second customer has received a copy of the content from the first customer, and where the second request includes first customer information associated with the corresponding piece of digital content and identifying the first customer, as is required by claim 82. Likewise, the Koppelman reference is not disclosed as retrieving first customer information from a license request and identifying the first customer therefrom, and crediting the first customer for a portion of the payment received in connection with the second license request, as is required by claim 82.

Thus, Applicant respectfully submits that neither the Schull nor the Koppelman references, alone or combined, disclose or suggest the subject matter recited in claim 82. Accordingly, and for all the aforementioned reasons, Applicant respectfully submits that the Schull reference and the Koppelman reference cannot be applied to make obvious such claim 82 or any claims depending therefrom, including claims 83-97. Further, Applicant respectfully submits that since independent claim 82 has been shown to be non-obvious, then so too must all claims depending therefrom be non-obvious, including claims

92, 94 and 95, at least by their dependency. Thus, Applicant respectfully requests reconsideration and withdrawal of the § 103(a) rejections.

In view of the foregoing Amendment and discussion, Applicant respectfully submits that the present application, including claims 82-97, is in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

Date: May 28, 2004

Steven H. Meyer
Registration No. 37,189

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439